BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

----- In the Matter of -----	)	
	)	DOCKET NO. 2008-0273
PUBLIC UTILITIES COMMISSION	)	
	)	
Instituting a Proceeding to Investigate the Implementation of Feed-In Tariffs.	)	
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HAWAII BIOENERGY, LLC'S OPENING STATEMENT OF POSITION

AND

CERTIFICATE OF SERVICE

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HAWAII BIOENERGY, LLC'S OPENING STATEMENT OF POSITION

HAWAII BIOENERGY, LLC ("HBE"), by and through its attorneys, Morihara, Lau & Fong LLP, does hereby submit its Opening Statement of Position in this docket, pursuant to the Order Approving the HECO Companies' Proposed Procedural Order, As Modified, filed in this docket on January 20, 2009 ("Order Approving Procedural Order").

I. BRIEF PROCEDURAL BACKGROUND

On October 24, 2008, the Hawaii Public Utilities Commission ("Commission") issued its Order Initiating Investigation ("Order Initiating Investigation") opening this docket. The Order Initiating Investigation states that the Commission initiated the instant proceeding to examine the implementation of feed-in tariffs in the service territories of Hawaiian Electric Company, Inc. ("HECO"), Maui Electric Company, Limited ("MECO"), and Hawaii Electric Light Company, Inc. ("HELCO") (collectively, HECO, MECO and HELCO referred to hereinafter as the "HECO Companies").[1] [2] The

[1] Order Initiating Investigation at 1.

Order Initiating Investigation references a comprehensive agreement[3] with certain stakeholders designed to move the State of Hawaii ("State" or "Hawaii") away from its dependence on imported fossil fuels for electricity and ground transportation, and toward "'indigenously produced renewable energy and an ethic of energy efficiency.'"[4] It further states, in relevant part:

> In their [Energy] Agreement, the HECO Companies and the Consumer Advocate request that, by March 2009, the [C]ommission:
>
> > conclude an investigative proceeding to determine the best design for feed-in tariffs that support the Hawaii Clean Energy Initiative, considering such factors as categories of renewables, sizes or locational limits for projects qualifying for the feed-in tariff, how to manage and identify project development milestones relative to the queue of projects wishing to take the feed-in tariff terms, what annual limits should apply to the amount of renewables allowed to take the feed-in tariff terms, what factors to incorporate into the prices set for feed-in tariff payments, and the terms, conditions, and duration of the feed-in tariff that shall be offered to all qualifying renewable projects, and the

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[2] As stated in its Order Initiating Investigation, the Commission named, as original parties to this proceeding, the HECO Companies and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"). By Order Granting Intervention, filed on November 28, 2008, the Commission granted intervention to the Department of Business, Economic Development, and Tourism ("DBEDT"), the City and County of Honolulu, the County of Hawaii, Life of the Land, Haiku Design and Analysis ("HDA"), Hawaii Renewable Energy Alliance, Blue Planet Foundation, Hawaii Solar Energy Association, The Solar Alliance, HBE, Sempra Generation, Maui Land & Pineapple Company, Inc., Zero Emissions Leasing LLC, Sopogy Inc., Hawaii Holdings, LLC, dba First Wind Hawaii ("First Wind"), Clean Energy Maui LLC, Tawhiri Power LLC, and Alexander & Baldwin, Inc., through its division Hawaiian Commercial & Sugar Company (collectively, "Intervenors"). The original parties (HECO Companies and the Consumer Advocate), as well as the Intervenors, are hereinafter referred to collectively as the "Parties."

[3] Energy Agreement Among the Governor of the State of Hawaii ("Governor"), DBEDT, Consumer Advocate, and the HECO Companies, dated October 20, 2008 ("Energy Agreement").

[4] Order Initiating Investigation at 1-2 (quoting Energy Agreement at 1).

continuing role of the Competitive Bidding Framework.[5]

Pursuant to the Order Approving Procedural Order, the Commission approved with modifications, the proposed Stipulated Procedural Order filed by the HECO Companies, Consumer Advocate, DBEDT, the City and County of Honolulu, the County of Hawaii, Sempra Generation, and First Wind; and further, adopted with certain modifications the Stipulated Regulatory Schedule proposed by HDA.

On December 23, 2008, the HECO Companies and the Consumer Advocate submitted their Joint Proposal on Feed-In Tariffs ("Joint FIT Proposal").

On December 31, 2008, the Parties submitted their respective comments to the National Regulatory Research Institute's ("NRRI") Scoping Paper titled "Feed-in Tariffs: Best Design Focusing Hawaii's Investigation," dated December 2008 ("NRRI Scoping Paper"). The Parties further submitted their respective responses to NRRI's threshold legal and non-legal questions set forth in the NRRI Scoping Paper on January 12, 2009 and January 26, 2009, respectively.

On January 28, 2009, the Intervenors submitted their respective information requests to the HECO Companies and the Consumer Advocate in connection with their December 23, 2008 Joint FIT Proposal, in which responses were submitted by the HECO Companies and the Consumer Advocate on February 11, 2009.

Pursuant to the Stipulated Regulatory Schedule set forth in the Order Approving Procedural Order, all Parties are required to file opening statements of position including proposals for feed-in tariff designs, policies and pricing methods by

[5] Order Initiating Investigation at 3 (footnote omitted).

February 25, 2009.[6] As such, HBE hereby submits the instant Opening Statement of Position in accordance with the Order Approving Procedural Order. HBE notes that its positions, representations, and statements set forth herein are preliminary in nature and are made solely for the purpose of facilitating the discovery and settlement process in this docket, and shall not prevent HBE from modifying or changing any of its positions, representations and statements set forth herein after the discovery process and discussing the issues with the respective Parties during the settlement process.

II. STATEMENT OF THE ISSUES

As set forth in the Order Approving Procedural Order, the issues in this docket are as follows:

Purpose of Project-Based Feed-In Tariffs ("PBFiTS")[7]

1. What, if any, purpose do PBFiTs play in meeting Hawaii's clean energy and energy independence goals, given Hawaii's existing renewable energy purchase requirements by utilities?
2. What are the potential benefits and adverse consequences of PBFiTs for the utilities, ratepayers and the State?

[6] As discussed further below, because there is not sufficient and reliable information submitted to date, HBE will not be including any other proposals for feed-in tariff designs, policies and pricing methods as part of its Opening Statement of Position at this time. Furthermore, HBE contends it may be premature to submit proposed feed-in tariff designs, policies and pricing methods as it believes that certain issues set forth by the Commission need to be addressed and/or resolved before any specific tariff designs, policies or pricing methods can be fully developed. Notwithstanding the above, HBE understands that certain Intervenors are preparing and will likely be submitting their joint proposal for feed-in tariff designs, policies and pricing methods on February 25, 2009 that may be more appropriate from HBE's perspective than the Joint FIT Proposal. However, until HBE is able to fully review and analyze the joint proposal ultimately agreed to and submitted by these Intervenors, HBE reserves its right to formulate its own definitive position on such proposal.

3. Why is or is not the PBFiT the superior methodology to meet Hawaii's clean energy and energy independence goals?

Legal Issues

4. What, if any, modifications are prudent or necessary to existing federal or state laws, rules, regulations or other requirements to remove any barriers or to facilitate the implementation of a feed-in tariff not based on avoided costs?

5. What evidence must the Commission consider in establishing a feed-in tariff and has that evidence been presented in this investigation?

Role of Other Methodologies

6. What role do other methodologies for the utility to acquire renewable energy play with and without a PBFiT, including but not limited to power purchase contracts, competitive bidding, avoided cost offerings and net energy metering?

Best design for a PBFiT or alternative method

7. What is the best design, including cost basis for PBFiTs or other alternative feed-in tariffs to accelerate and increase the development of Hawaii's renewable energy resources and their integration in the utility system?

Eligibility Requirements

8. What renewable energy projects should be eligible for which renewable electricity purchase methods or individual tariffs and when?

Analysis of the cost to consumers and appropriateness of caps

9. What is the cost to consumers and others of the proposed feed-in tariffs?

10. Should the Commission impose caps based upon these financial effects, technical limitations or other reasons on the total amount purchased through any mechanism or tariff?

Procedural Issues

11. What process should the Commission implement for evaluating, determining and updating renewable energy purchased power mechanisms or tariffs?

12. What are the administrative impacts to the Commission and the Parties of the proposed approach?

III. OPENING STATEMENT OF POSITION

A. HBE's Overall Statement of Position

HBE believes that developing a feed-in tariff ("FIT") is critical to the State of Hawaii achieving its aggressive renewable energy goals. However, if a FIT is not designed and implemented properly, it could significantly impede the State's progress toward renewable energy development and integration. If the FIT becomes a primary means through which the electric utilities purchase power from renewable energy producers, the rates, terms and conditions will be critical factors in determining whether the FIT encourages renewable energy development or inhibits it. For example, uncompetitive tariffs that do not provide a reasonable rate of return for developers, inadequate differentiation between technologies, absence of appropriate review and inflation adjustment provisions, and lack of clarity regarding connection

charges threaten to discourage renewable energy investment and development. Given the nascent and untested nature of Hawaii's proposed FIT program to be implemented by the HECO Companies, and the need for the State to diversify its renewable energy base, it is critical that the electric utilities maintain a constant dialogue with renewable energy developers or providers in and outside the current program to ensure that Hawaii successfully incorporates a broad range of renewable energy sources to meet both its current energy needs and longer term renewable energy goals.

Considering Hawaii's extreme dependence on imported fossil fuels and the worsening of the State's budget deficit, HBE believes that the electric utilities should move as aggressively as possible to develop and implement programs that effectively integrate sustainable and locally produced renewable electricity into the State's energy mix. While energy diversification is of the utmost urgency, HBE acknowledges the HECO Companies' assertion in this proceeding that the existing electrical and associated operating infrastructure may restrict the types of generation technology and the volume of renewable electricity that can presently be incorporated in the applicable utility's system. However, the HECO Companies have not provided detailed information regarding the types of technologies and maximum levels of renewable energy the system is able to tolerate. The absence of this type of information creates uncertainty for potential investors and complicates and further delays planning for prospective renewable energy developers or producers, particularly for those not presently qualified to benefit from the HECO Companies' proposed "Round 1 FIT program" described in the Joint FIT Proposal. As the HECO

Companies have yet to provide the public with necessary detailed information regarding its system capacity, HBE believes it has inhibited prospective renewable energy developers or producers from contributing to the FIT design process and limited the prospects for the optimal design to be achieved.

B. Discussion of Key Renewable Energy Topics

1. Importance of Hawaii incorporating renewable energy.

Integrating progressively higher levels of renewable energy into Hawaii's energy matrix is of critical importance given the sector's potential to safeguard the environment, enhance energy security, create jobs and stimulate economic growth. The urgency with which Hawaii needs to transition away from fossil fuels to incorporate sustainable, renewable forms of energy has been recognized throughout the State and has already resulted in a variety of programs to catalyze sector development. The Governor's January 31, 2008 signing of the Memorandum of Understanding with the United States Department of Energy for the Hawaii Clean Energy Initiative ("HCEI"), which contained a 70% renewable energy and efficiency target for 2030, solidified the State's strong commitment to renewable energy integration and set an aggressive goal which the HECO Companies and renewable energy developers or producers are challenged to meet.

The HECO Companies' comprehensive Energy Agreement with the Governor, DBEDT and the Consumer Advocate signed in October 2008 helped to accelerate this process by outlining the HECO Companies' commitment to integrate as much as 1,100 megawatts ("MW") of already identified additional renewable energy into the HECO Companies' grids, 700 MW of which is to be implemented within five

years. The collective agreement to generate 40% of electric power from renewable sources by 2030, a doubling of the Renewable Portfolio Standard, signaled to independent power producers that the State and the HECO Companies were committed to moving forward in earnest. The efforts made by the Hawaii State Legislature, which have included tax credits and other supports, have also helped in creating a more favorable and attractive environment for renewable energy investment. Crafting a sound and equitable regulatory framework for these policies will be a key factor in stimulating and sustaining investment in the sector.

2. Benefits of incorporating renewable energy.

Improves Hawaii's Environment

The sustainable development of local renewable energy resources will help to preserve Hawaii's precious and delicate natural resource base, improve air quality, and reduce pollution associated with the importation and burning of fossil fuels. In addition to reduced fossil fuel consumption, greater utilization of renewable energy resources will help to minimize the State's greenhouse gas emissions. The environmental cost of carbon emissions has been well documented by the International Panel on Climate Change and countless other groups, and the United States government is steadily moving toward policies that would place a monetary price on these emissions as well, thereby creating another incentive for the HECO Companies to incorporate a wide range of technologies and facility sizes into the FIT program.

Enhances the State's Energy Security

In addition to the environmental benefits associated with reduced petroleum consumption, the diversification of energy sources is the most effective and immediate means of improving Hawaii's energy security. Fostering local production through a variety of technologies including wind, solar, biomass, hydro, geothermal, wave, and others by way of a comprehensive FIT program will generate both firm and non-firm electricity supplies to supplement the State's existing capacity. Such efforts will begin to displace the fossil fuels upon which the HECO Companies' operating systems are currently dependent on and will help the HECO Companies to comply with their respective commitments under the HCEI.

Moving forward with a FIT program that will foster such diversification is critically important not only because Hawaii's reliance on imported fossil fuels for more than 90% of its energy needs leaves the State extremely vulnerable both to supply disruptions and environmental disasters, but the dependence continues to drain the State of precious fiscal resources. According to data collected from DBEDT, Hawaii consumed just over 9.5 million barrels of fuel oil and diesel fuel in 2007 at a cost of over $850 million dollars to the State. By the end of September 2008, the latest date for which statistics are available, Hawaii had already consumed nearly 6.8 million barrels of fuel oil and diesel fuel at a cost of nearly $1.7 billion dollars.[8] Devising a FIT program that fosters diversification of the State's productive energy base will enhance energy security, enable greater control over

[8] Hawaii Department of Economic Tourism and Development, Monthly Energy Data, Accessed 19 Jan. 2009. http://hawaii.gov/dbedt/info/economic/data_reports/energy-trends/Monthly_Energy_Data.xls

energy pricing, and allow dollars spent on energy consumption to be reinvested in the State.

Creates an Engine of Local Economic Growth

Local investment is of paramount importance given Hawaii's budget deficit and the worsening outlook for the global economy. Over the last year, more than 10,000 jobs have been lost in Hawaii, causing the unemployment rate to rise from 3.1% to 4.5%.[9] The local economy will be further strained by the budget deficit, which is projected to reach approximately $232 million by mid-2009.[10] In the severe economic downturn, it is critical that Hawaii focus on generating economic growth through homegrown industry. HBE is committed, as are other Hawaii-based renewable energy developers or producers, to local growth, local business, and local self-sufficiency through renewable energy investment and development. Broadening the FIT program to incorporate additional technologies such as biomass, which is able to produce larger quantities of firm electricity, will help to provide direct economic stimulus to the State. Biofuels and bioenergy production on the islands could counter the worsening economic outlook by maintaining jobs in the agricultural sector, creating new jobs throughout the economy, generating new wealth for the State, and expanding Hawaii's tax base. According to an independent analysis, biomass-based renewable energy projects in Hawaii would produce widespread economic benefits as the investment spills over from one island into the others. The renewable projects will

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[9] Bureau of Labor Statistics. "Databases, Tables & Calculators by Subject: Historical Hawaii State Unemployment." http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?data_tool=latest_numbers&series_id=LASST15000003

[10] McNichol, Elizabeth and Iris J. Lay. "State Budget Troubles Worsen." Center on Budget and Policy Priorities. 10 Dec. 2008. http://www.cbpp.org/9-8-08sfp.htm

require local labor and local inputs, thus generating more demand from the local economy and creating a multiplier effect that will help to improve the State's fiscal position and contribute to economic growth.

Benefits Hawaii's Agricultural Industry

In addition to the aforementioned benefits of renewable electricity generation, biomass-based projects in particular have the potential to revitalize Hawaiian agriculture. While competitive and economic pressures have led to the deterioration and near collapse of many of the State's agricultural businesses over the last several years, integrated biomass-to-energy projects can preserve jobs in the sector as well as improve the efficiency and environmental performance of crop production through enhanced agronomic techniques, integration of high-yield and low-input crop varieties, and incorporation of advanced technology. In addition to "green" electricity, biomass-based biorefineries have the potential to yield multiple value-added co-products such as feed and fertilizer, further reducing the dependence on imported goods and enhancing the sustainability of agriculture.

3. Incorporate renewable energy as aggressively as the HECO Companies can accommodate with current and improved infrastructure operations.

The clear environmental, energy security and economic development benefits outlined above underscore the immediate need for clear and well-designed FIT policies that will attract diverse, long-term renewable energy investment to the State. While it is important to move forward aggressively with renewable energy, it is also important that the adoption and integration be conducted in a manner that balances the need to maintain the reliability, integrity, and safety of

the existing network with the State's aggressive renewable energy targets. HBE recognizes that the speed of renewable energy adoption as well as the type of renewable energy generation eligible for the FIT program will be impacted by the HECO Companies' current infrastructure and operations network.

In the Joint FIT Proposal, the HECO Companies and the Consumer Advocate indicate that a FIT should "maintain system reliability, grid stability, and safety standards."[11] HBE agrees that the reliability, stability and safety of the network infrastructure and operations are very relevant and provide the "upper" limit on what types and how fast renewable energy can be involved. Stated another way, Hawaii should adopt as many types of renewable energy that can be adopted as quickly as possible without compromising the reliability, stability and safety concerns that the HECO Companies emphasized in the Joint FIT Proposal.

However, in this proceeding, while citing to those concerns, the HECO Companies have not provided any information that clearly establishes what the upper limits of technology levels and speed are of adopting renewable energy sources. In the HECO Companies' proposed FIT design set forth in the Joint FIT Proposal, the HECO Companies proposed limited technologies and very low thresholds. In response to HBE's information requests for all documentation and support for proposing such limited technologies and low thresholds, the HECO Companies stated that it was basing the same on what could fit into its existing structure (i.e., Schedule Q and Tariff 14.H). The HECO Companies did not set forth what could be incorporated on a maximum basis technically and operationally. Rather, it appeared that the HECO

[11] HECO Feed-In Tariff Program Plan, attached to the Joint FIT Proposal, at 9.

Companies simply chose to propose a FIT that did not require any material change to what is already in effect.

Given that the HECO Companies have not provided information on the types and amounts of renewable energy they are capable of incorporating, HBE does not believe a FIT to achieve the stated purpose of encouraging the development of renewable energy aggressively to meet the HCEI goals can be developed. In its prior filings in this docket, HBE recognized that the pace of adoption of renewable energy may be dependent on what and how much the HECO Companies can accept without jeopardizing reliability and safety. Despite HBE's information requests, this information has not been made available in this proceeding. HBE would also note that while the HECO Companies' network and operations may be able to accommodate an upper limit of certain technologies and levels of renewable energy currently, that limit should rise aggressively as the HECO Companies are required to make improvements to be able to accommodate more technologies and higher levels of renewable energy. As a result, and given the lack of this needed information, HBE does not believe that it can accurately state a position on many of the issues relating to design, costs and other questions described in more detail below.

4. Initial impressions of the HECO Companies' proposed FIT.

Based on the above, HBE does not believe that the HECO Companies' proposed FIT described in the Joint FIT Proposal will aggressively encourage renewable energy development or meaningfully contribute to Hawaii's renewable energy goals. HBE believes that the thresholds contained in the HECO Companies' proposed FIT are too low to make a significant contribution to the State's

or the HECO Companies' renewable energy goals. Further, based on the HECO Companies'/Consumer Advocate's position that the FIT would replace net energy metering going forward, it appears that the proposed FIT could very well have the effect of discouraging small scale renewable energy development. Specifically, it appears that customers contemplating installing small scale renewable energy would likely be "worse off" under the proposed FIT than the net energy metering currently in use. Accordingly, based on the adverse impact to customers who otherwise would have used the current net metering practice, combined with the low threshold levels set for new projects that may take advantage of the FIT, it seems possible that the proposed FIT design together with the HECO Companies' proposed changes to the net metering could have an overall negative impact on developing additional renewable energy sources in an aggressive manner in Hawaii. To HBE's knowledge, while the HECO Companies and the Consumer Advocate have presented a proposed FIT design, they have not provided any estimate of whether it would have a "net" positive or negative effect on the introduction of renewable energy in Hawaii.

IV. HBE'S OPENING STATEMENT OF POSITION ON COMMISSION ISSUES

The following sets forth HBE's Opening Statement of Position with respect to each of the Commission issues set forth above and in the Order Approving Procedural Order.

A. Issue 1: What, if any, purpose do PBFiTs play in meeting Hawaii's clean energy and energy independence goals, given Hawaii's existing renewable energy purchase requirements by utilities?

If properly structured, PBFiTs could play a leading role in advancing Hawaii's clean energy and energy independence goals. While operational and technical programs will also be important, including the laying of inter-island cables, a wide range of corresponding policies may also be necessary due to the complexity of developing the renewable energy sector. Since PBFiTs address the pricing of renewable power and renewable purchase mandates (i.e., RPS) address the quantity desired, these two policy types do not interfere with each other and are often considered complementary. Recognized as an effective means to incent renewable energy production, PBFiTs are presently moving forward in other states throughout the nation that already have renewable portfolio standards (including California, Florida, Michigan, Wisconsin, and Washington) as well as in the United Kingdom. Further, the European Union is planning to implement renewable energy purchase requirements in addition to the RPS. Virtually all of the European countries that have PBFiTs in place have other types of complementary incentives.

B. Issue 2: What are the potential benefits and adverse consequences of PBFiTs for the utilities, ratepayers and the State of Hawaii?

A properly-structured PBFiT would help to ensure that the State pursues its energy independence goals using the most effective policy tools available (see Issue No. 3 for additional discussion of the strengths of the policy). An estimated $15.7 million dollars flow out of Hawaii every day to import fossil-based energy for transportation and electricity generation. As referenced above, local, renewable

energy production would reduce energy imports, increase energy security, as well as generate jobs, wealth, and tax revenue for the State. Of course, the degree of energy diversification and economic impact would clearly depend on the number and type of renewable energy projects developed.

However, should PBFiTs be poorly designed by setting rates too low, they could ultimately fail to attract the necessary investment into the sector. Further, a poorly implemented policy could ultimately end up absorbing legislative and regulatory resources out of proportion to its positive impacts, perversely becoming an obstacle to the creation of more effective incentive programs and hindering efforts to achieve the State's energy independence goals.

Conversely, if the PBFiT program were to be implemented with tariffs and caps set so high that the electric utility would be obligated to buy large quantities of over-priced energy, it could adversely impact ratepayers resulting in unacceptable increases in ratepayer electricity bills. However, experience with feed-in tariffs in Germany suggests that this outcome is unlikely, as its extremely generous and uncapped PBFiT program, which has made it a global leader in both solar and wind power, has resulted in only relatively minor increases in electricity bills. These marginal increases have not had a significant impact on political support for these programs.

C. Issue 3: Why is or is not the PBFiT the superior methodology to meet Hawaii's clean energy and energy independence goals?

As noted above, the PBFiT is just one measure among several policy and technical initiatives working together that may be necessary to help Hawaii achieve its renewable energy goals. Also as noted above, the efficacy of the PBFiT

will depend on the details of its implementation, and a PBFiT program with tariffs set too low could end up having a negative impact on the renewable energy sector's development.

However, a well-implemented PBFiT is a particularly critical factor in catalyzing renewable energy development, as it has the strongest track record for promoting renewable energy of any type of incentive. A properly-designed PBFiT provides tariffs set at a level sufficient to cover the costs of competitive projects for each technology type plus a fair rate of return, making renewable energy investments attractive to investors despite their higher up-front costs and higher risks compared to conventional energy investments. Given Hawaii's wide range of natural resources, this type of differentiation by technology is particularly important to ensure that the full spectrum of the State's renewable energy potential is developed. Moreover, since the tariffs are fixed and guaranteed over a long-term contract, they are more effective in making renewable energy projects bankable, that is they provide an assured revenue stream which enables these projects to secure financing. Revenue assurance and bankability have become particularly critical in light of the recent credit crunch, which has raised financing costs and made lenders more risk-averse in recent months.

D. Issue 4: What, if any, modifications are prudent or necessary to existing federal or state laws, rules, regulations or other requirements to remove any barriers or to facilitate the implementation of a feed-in tariff not based on avoided costs?

Please see HBE's responses to NRRI's threshold legal issues or questions, filed on January 12, 2009.

E. Issue 5: What evidence must the Commission consider in establishing a feed-in tariff and has that evidence been presented in this investigation?

Please see HBE's responses to NRRI's threshold legal issues or questions, filed on January 12, 2009.

F. Issue 6: What role do other methodologies for the utility to acquire renewable energy play with and without a PBFiT, including but not limited to power purchase contracts, competitive bidding, avoided cost offerings and net energy metering?

As noted herein, particularly in HBE's response to Issue No. 3 above, the PBFiT is just one measure or method that is necessary to help Hawaii achieve its renewable energy goals. As alluded to in the NRRI Scoping Paper, there are indeed other measures, programs or methods (e.g., competitive bidding, renewable portfolio standards, net energy metering, etc.) that working together may be necessary to also help Hawaii achieve its renewable energy goals.

G. Issue 7: What is the best design, including the cost basis, for PBFiTs or other alternative feed-in tariffs to accelerate and increase the development of Hawaii's renewable energy resources and their integration in the utility system?

As previously stated, HBE contends that the HECO Companies have not yet provided sufficient and reliable information on, among other things, the types and amounts of renewable energy they are capable of incorporating into their respective systems. As such, HBE is unable to provide a response or position to this issue at this time.

H. Issue 8: What renewable energy project should be eligible for which renewable electricity purchase methods or individual tariffs and when?

As previously stated, HBE contends that the HECO Companies have not yet provided sufficient and reliable information on, among other things, the types and amounts of renewable energy they are capable of incorporating into their respective systems. As such, HBE is unable to provide a response or position to this issue at this time.

I. Issue 9: What is the cost to consumers and others of the proposed feed-in tariffs?

As previously stated, HBE contends that the HECO Companies have not yet provided sufficient and reliable information on, among other things, the types and amounts of renewable energy they are capable of incorporating into their respective systems. As such, HBE is unable to provide a response or position to this issue at this time.

J. Issue 10: Should the Commission impose caps based upon these financial effects, technical limitations or other reasons on the total amount purchased through any mechanism or tariff?

As previously stated, HBE contends that the HECO Companies have not yet provided sufficient and reliable information on, among other things, the types and amounts of renewable energy they are capable of incorporating into their respective systems. As such, HBE is unable to provide a response or position to this issue at this time.

K. Issue 11: What process should the Commission implement for evaluating, determining and updating renewable energy purchased power mechanisms or tariffs?

HBE agrees with the HECO Companies' and Consumer Advocate's Joint FIT Proposal that there should be automatic periodic reviews of the program, with the first to be scheduled within two years of the program's start. However, if the PBFiTs are established and implemented, and proceed forward with only limited technologies included, there must be a provision allowing for renewable energy developers or producers, utilities, the Consumer Advocate or other stakeholders to petition for the addition of new technologies in between formal automatic periodic review periods, if necessary. Technologies are developing so quickly that to not allow a new technology until after a two-year initial automatic review period, could mean that it would be three years (allowing time for the proceeding) before a renewable energy developer or producer may know what the FIT will be. Thus, not allowing any "interim" petitions would be counter to the State's goal of moving aggressively toward renewable energy as it could be an inhibitor to the timely introduction of new technologies. Without provisions for such "interim" reviews, the State could be hindered in its goal of introducing new renewable energy technologies in a timely fashion.

Ideally, these types of interim technology additions would be adopted with the same set of methodologies used for existing PBFiTs technologies, avoiding the need to undergo all the steps of current proceeding again and greatly expediting the process.

L. Issue 12: What are the administrative impacts to the Commission and the Parties of the proposed approach?

The administrative impacts to the Commission and the Parties would be similar to the impacts of the proceeding currently underway. By contrast, the ability to introduce new technologies in-between formal reviews could significantly lower the impact to the Commission, since petitions would be for only single technologies and could be incorporated into the existing methodologies established by the current proceedings and/or future scheduled reviews.

V. CONCLUSION

HBE reiterates that it believes that the establishment and implementation of feed-in tariffs by the HECO Companies are important and positive steps in moving the State aggressively towards its renewable energy goals. However, feed-in tariffs not properly designed or implemented could actually serve to discourage, delay or inhibit the development of renewable energy sources.

DATED: Honolulu, Hawaii, February 25, 2009.

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CERTIFICATE OF SERVICE

I hereby certify that on this date I served copies of the foregoing document on the following parties, by causing copies hereof to be delivered via electronic mail, mailed, postage prepaid, properly addressed or hand delivered to the following:

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